

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600
(www.co.mo.md.us/council/board/html)

Case No. A-5789

PETITION OF ITALO C. MAZZITTI
(Hearing held September 4, 2002)

OPINION OF THE BOARD
(Effective date of Opinion, September 20, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes to construct a garage addition that requires a variance of four (4) feet as it reduces the sum of both side yards to twenty-one (21) feet. The required setback is twenty-five (25) feet.

The subject property is Lot 13, Block A, Regency Estates Subdivision, located at 8600 Wild Olive Drive, Potomac, Maryland, in the R-90 Zone (Tax Account No. 00103455).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 14 x 26 foot garage addition in the western side yard.
2. The petitioner testified that the proposed construction would replace the existing carport. The petitioner testified that the proposed garage is designed to provide easier parking access because it is difficult to enter the car from the driveway during the winter months.
3. The petitioner testified that the addition would be in harmony with other structures in the neighborhood and that the shape and size of his lot is similar to the other lots in the neighborhood. See, Exhibit No. 8.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's property is not unique and that the lot's existing conditions do not create a zoning reason for the grant of the requested variance. The Board finds that the petitioner's property is consistent in shape and size with the other lots in the neighborhood.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements set forth in that section for the grant of a variance. Accordingly, the requested variance of four (4) feet from the required twenty-five (25) foot sum of both side yards to construct a garage addition is denied.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Allison Ishihara Fultz, seconded by Louise L. Mayer, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution. Board member Donna L. Barron was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 20th day of September, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the

proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.